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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,263	03/08/2004	Laurie A. Gallagher	H0005976	2374
23413	7590	06/23/2006	EXAMINER	
CANTOR COLBURN, LLP 55 GRIFFIN ROAD SOUTH BLOOMFIELD, CT 06002			MRUK, BRIAN P	
			ART UNIT	PAPER NUMBER
			1751	

DATE MAILED: 06/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/796,263	Applicant(s) GALLAGHER ET AL.	
	Examiner Brian P. Mruk	Art Unit 1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/8/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 42 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. The phrases "about 0 wt.%" in lines 3, 4, 6, 7 and 8 of claim 42 render the claim vague and indefinite, since it is unclear what values are encompassed by "about 0". Furthermore, the examiner notes that the components recited after the phrases "about 0 wt.%" in lines 3, 4, 6, 7 and 8 of claim 42 are required in independent claim 36, which also makes the claim vague and indefinite, since these components don't need to be present in dependent claim 42 (i.e. with the value zero). Appropriate correction and/or clarification is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-35 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Mitra et al, U.S. Patent No. 6,673,761.

Mitra et al, U.S. Patent No. 6,673,761, discloses a cleaning wipe containing a composition comprising an effective amount of a biocide (see abstract and col. 3, line 62-col. 4, line 5), surfactants, such as ethoxylated alcohols and lauryl sulfate (see col. 4, lines 23-63), builders, such as polycarboxylates and EDTA (see col. 9, lines 40-col. 10, line 2), alkali metal carbonates (see col. 12, lines 22-34), polymers, such as polystyrenesulfonates that include VERSA TL-4 (see col. 13, lines 15-45), and deionized/soft water in an amount of at least 80% (see col. 16, lines 14-20), per the requirements of the instant invention. Specifically, note Examples 1-10. The examiner asserts that the compositions disclosed in Mitra et al would inherently meet the pH requirements of the instant invention, since the compositions contain all of the required components in the amounts required to meet the instantly claimed pH values, absent a showing otherwise. Furthermore, the examiner asserts that "The fact remains that one of ordinary skill informed by the teachings of Mitra et al would not have had to choose judiciously from a genus of possible combinations to obtain the very subject matter to which appellant's composition per se claims are directed." *In re Sivaramakrishnan*, 213 USPQ 441 (CCPA 1982). Therefore, instant claims 1-35 are anticipated by Mitra et al, U.S. Patent No. 6,673,761.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions for the same utility.

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7. Claims 1-35 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ouellette et al, U.S. 2004/0244132.

Ouellette et al, U.S. 2004/0244132, discloses a disposable mitt containing a treatment composition for cleaning car surfaces, such as wheel, tires, and interior surfaces (see abstract and paragraph [0001]). It is further taught by Ouellette et al that the composition includes anionic surfactants and nonionic surfactants, such as C₁₀₋₁₈ alkyl sulfates and ethoxylated alcohols (see paragraphs [0073]-[0082]), polyacrylic and polycarboxylate polymers (see paragraphs [0100] and [0106]), biocide preservatives (see paragraph [0101]), builders, such as EDTA (see paragraphs [0107]-[0108]), buffering agents, such as alkali metal carbonates (see paragraph [0109]), polymers, such as sulfonated polystyrene polymers (see paragraph [0141]), and water (see paragraph [0156]), per the requirements of the instant invention. Specifically, note the Examples in Table 1. The examiner asserts that the compositions disclosed in Ouellette et al would inherently meet the pH requirements of the instant invention, since the compositions contain all of the required components in the amounts required to meet the instantly claimed pH values, absent a showing otherwise. Furthermore, the examiner asserts that "The fact remains that one of ordinary skill informed by the teachings of Ouellette et al would not have had to choose judiciously from a genus of possible combinations to obtain the very subject matter to which appellant's composition per se claims are directed." *In re Sivaramakrishnan*, 213 USPQ 441 (CCPA 1982). Therefore, instant claims 1-35 are anticipated by Ouellette et al, U.S. 2004/0244132.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions for the same utility.

8. Claims 1-3, 5-7, 10-18 and 20-22 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Bragulla, WO 2004/024857.

Bragulla, WO 2004/024857, discloses a vehicular cleaning composition comprising water, polycarboxylate polymers, such as polyacrylic acids and copolymers of maleic acid anhydride and acrylic acid (see abstract and page 3, lines 8-15), nonionic surfactants, such as alkoxyated fatty alcohols (see page 3, line 28-page 4, line 22), and adjunct ingredients, such as acidic and basic substances and solvents (see page 7, line 7-page 8, line 2), wherein the pH of the composition is 4-10 (see page 4, lines 23-25), per the requirements of the instant invention. Specifically, note the Examples in Table 1. Furthermore, the examiner asserts that "The fact remains that one of ordinary skill informed by the teachings of Ouellette et al would not have had to choose judiciously from a genus of possible combinations to obtain the very subject matter to which appellant's composition per se claims are directed." *In re Sivaramakrishnan*, 213 USPQ 441 (CCPA 1982). Therefore, instant claims 1-3, 5-7, 10-18 and 20-22 are anticipated by Bragulla, WO 2004/024857.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions for the same utility.

9. Claims 36-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitra et al, U.S. Patent No. 6,673,761.

Mitra et al, U.S. Patent No. 6,673,761, is relied upon supra as disclosing a cleaning composition comprising an effective amount of a biocide (see abstract and col. 3, line 62-col. 4, line 5), surfactants, such as ethoxylated alcohols and lauryl sulfate (see col. 4, lines 23-63), builders, such as polycarboxylates and EDTA (see col. 9, lines 40-col. 10, line 2), alkali metal carbonates (see col. 12, lines 22-34), polymers, such as polystyrenesulfonates that include VERSA TL-4 (see col. 13, lines 15-45), and deionized/soft water in an amount of at least 80% (see col. 16, lines 14-20), per the requirements of the instant invention. Although Mitra et al generally discloses a cleaning composition containing ethoxylated alcohol and lauryl sulfate surfactants, EDTA, buffering agents, and a sulfonated styrene/maleic anhydride copolymer, the reference does not require such cleaning compositions containing these components with sufficient specificity to constitute anticipation.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to have formulated a cleaning composition, as taught by Mitra et al, which contained ethoxylated alcohol and lauryl sulfate surfactants, EDTA, buffering agents,

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and a sulfonated styrene/maleic anhydride copolymer, because such cleaning compositions fall within the scope of those taught by Mitra et al. Therefore, one of ordinary skill in the art would have had a reasonable expectation of success, because such a cleaning composition containing ethoxylated alcohol and lauryl sulfate surfactants, EDTA, buffering agents, and a sulfonated styrene/maleic anhydride copolymer is expressly suggested by the Mitra et al disclosure and therefore is an obvious formulation.

10. Claims 36-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ouellette et al, U.S. 2004/0244132.

Ouellette et al, U.S. 2004/0244132, is relied upon supra as disclosing a composition for cleaning the surfaces of tires and wheels comprising anionic surfactants and nonionic surfactants, such as C₁₀₋₁₈ alkyl sulfates and ethoxylated alcohols (see paragraphs [0073]-[0082]), polyacrylic and polycarboxylate polymers (see paragraphs [0100] and [0106]), biocide preservatives (see paragraph [0101]), builders, such as EDTA (see paragraphs [0107]-[0108]), buffering agents, such as alkali metal carbonates (see paragraph [0109]), polymers, such as sulfonated polystyrene polymers (see paragraph [0141]), and water (see paragraph [0156]), per the requirements of the instant invention. Although Ouellette et al generally discloses a cleaning composition containing ethoxylated alcohol and C₁₀₋₁₈ alkyl sulfate surfactants, EDTA, buffering agents, and a sulfonated styrene/maleic anhydride copolymer, the reference does not

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require such cleaning compositions containing these components with sufficient specificity to constitute anticipation.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to have formulated a cleaning composition, as taught by Ouellette et al, which contained ethoxylated alcohol and C₁₀₋₁₈ alkyl sulfate surfactants, EDTA, buffering agents, and a sulfonated styrene/maleic anhydride copolymer, because such cleaning compositions fall within the scope of those taught by Ouellette et al. Therefore, one of ordinary skill in the art would have had a reasonable expectation of success, because such a cleaning composition containing ethoxylated alcohol and C₁₀₋₁₈ alkyl sulfate surfactants, EDTA, buffering agents, and a sulfonated styrene/maleic anhydride copolymer is expressly suggested by the Ouellette et al disclosure and therefore is an obvious formulation.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Mruk whose telephone number is (571) 272-1321. The examiner can normally be reached on Mon-Thurs (7:00AM-5:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BPM

Brian P Mruk
June 16, 2006

Brian P. Mruk

Brian P Mruk
Primary Examiner
Art Unit 1751